

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7070

BILL NUMBER: SB 472

DATE PREPARED: Jan 9, 2002

BILL AMENDED:

SUBJECT: Prior Authorization for Prescription Drugs under the Medicaid Program.

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FUNDS AFFECTED: X GENERAL
DEDICATED
X FEDERAL

IMPACT: State

Summary of Legislation: This bill imposes certain conditions before prior approval may be required for a narrow therapeutic index drug under the Medicaid program. The bill authorizes the Drug Utilization Review Board to implement a uniform Medicaid managed care formulary. It also requires a process that allows for a medically necessary prescription to be filled in an emergency. The bill requires the Office of Medicaid Policy and Planning to implement the Board's uniform medicaid managed care formulary.

Effective Date: July 1, 2002.

Explanation of State Expenditures: *Narrow therapeutic index drug provisions:* This bill defines a narrow therapeutic index drug and imposes certain restrictions before prior approval may be required. This provision would restrict the ability of the Office of Medicaid Policy and Planning (OMPP) to place these drugs on the prior approval program for a period of time at the minimum. Any savings the OMPP might realize as a result of the prior approval program would be affected by this carve out of drug type. OMPP has estimated this loss of savings to be approximately \$1M annually, or \$380,000 in state General Funds. This estimate is based on prior year's data and will be updated when new information is available.

Single-source drug provisions: This bill would also impose certain restrictions on the ability of OMPP to place single-source drugs on the prior approval program for a period of time at the minimum. Any savings the OMPP might realize as a result of the prior approval program would be reduced by this exclusion based on drug type. An estimate of the potential loss of savings to the Medicaid program is not yet available.

Drug Utilization Review Board Provisions: This bill adds the requirement of authorization before dispensing a drug to the definition of "intervention" by the Drug Utilization Review Board (DUR Board). The bill also adds the imposition of any restriction including prior authorization before dispensing a drug to the list of interventions that must be approved by at least three of the four pharmacist or physician members of the DUR Board before implementation. Implementation of a disease management program is also added to the list of

interventions. The existing definition and descriptions of interventions indicate that these are review, assessment, and education-related activities, not Medicaid administrative program policies. OMPP advisory committees such as the DUR Board have review authority, not approval authority, over functional areas of the program. A federal Medicaid regulation [42CFR456.716(c)] states: “The (Medicaid) agency has the authority to accept or reject the recommendations or decisions of the DUR Board.”

The bill also requires the DUR Board to develop and implement a uniform managed care formulary, which may be contrary to federal Medicaid regulations. The bill requires the OMPP to implement the formulary developed by the DUR Board. Current statute requires the DUR Board to review and make recommendations regarding the formularies of each of the three managed care organizations (MCO’s) in the state. Under federal regulations, OMPP may approve, disapprove, or require adjustments to a managed care organization’s formulary based on the DUR Board’s recommendations, but they are not required to accept the recommendations.

Federal regulations preclude the use of the DUR Board as a body with Medicaid program approval authority. 42CFR456.703(c)(2) provides that “the State plan must provide that covered outpatient drugs dispensed by health maintenance organizations are not subject to the requirements of the Drug Use Review program.” So to the extent that the MCOs meet the federal definition of a health maintenance organization, they would not be subject to the DUR Board. The funding at risk is the FFP for covered outpatient drugs.

Explanation of State Revenues: Medicaid is a cost-shared program with the federal government reimbursing approximately 62% of costs and the state contributing about 38% from General Fund appropriations.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Family and Social Services Administration, Office of Medicaid Policy and Planning.

Local Agencies Affected:

Information Sources: Amy Brown, Legislative Liaison for FSSA, (317) 232-1149; Marc Shirley, Medicaid Pharmacy Program Director; Ginger Brophy, Medicaid Managed Care, Acting Program Director.